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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,382	02/11/2004	Andrew C. Schleit	T00109	3933
33438 7590 08/23/2007 HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			EXAMINER ENG, DAVID Y	
			ART UNIT	PAPER NUMBER
			2155	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/776,382	Applicant(s) SCHLEIT ET AL.	
	Examiner DAVID Y. ENG	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/2003</u> | 6) <input type="checkbox"/> Other: ____ |

Art Unit: 2155

DETAILED ACTION

Applicants are requested to update the status of related applications on pages 1-2 of the specification.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8 and 9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Computer program product is not one of four statutory subject matters.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Step (c) of independent claim 1 recites "developing the user context in accordance with the determination in (b)". However, the information as determined in step (b) appears to be unable to instruct how the user context is developed. It appears that steps are missing between step b and step c.

Dependent claim 2 is purported to further limit step (b) of its parent claim 1. However, determining whether the nonlinear site flow event represents a new user request or a past user request recited in claim 2 appear to be unrelated to determining which, if any, information associated with the nonlinear site flow event should be included in the user context (step b). Further, step (b) as recited in claim 2 has no functional relationship to step (c) of its parent claim 1.

Other claims have similar defects set forth above. For example, the steps as recited in claim 3 are unable to detect a nonlinear site flow event in the user session data. Applicants are requested to review all the claims for similar defects. The claims should be such that each of the steps has functional relationship to its preceding and following steps and such that following the ordered steps a meaningful result could be achieved at the end.

Further with respect to claim 3, "the Web server application" has no antecedent basis.

Further with respect to claim 4, it is not clear in what order, with respect to the steps of its parent claim 3, the steps of claim 4 are executed.

Claim 6 has similar defect of claim 4 set forth above.

Claim 7 is not understood. It is not clear what a product demand signal is and how that is related to developing user context.

The program claim of claims 8 and 9 are improperly dependent on method claim 1.

Further with respect to claim 9, disk, tape or other magnetic, optical, or electronic storage medium and a network, wireline, wireless or other communications medium are not computer program product.

Claims 10-23 have similar defects set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 8-9, 15-19, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payton (USP 6,681,247).

Payton teaches:

Claims 1, 8, 9, 15

A method of developing user context from user Web session data (function of the activity monitor 110, column 7 lines 20-26) that includes nonlinear site flow events, the method comprising:

(a) detecting a nonlinear site flow event in the user session data (inherent step in monitoring);

(b) determining which, if any, information associated with the nonlinear site flow event should be included in the user context (information about the user activity, see the examples in column 7 lines 24-25);

(c) developing the user context (the collected record of activity) in accordance with the determination in (b).

The only difference is that in Payton all activities, including linear and nonlinear, are recorded where as in the instant invention only nonlinear activity is recorded. It would have been obvious to a person of ordinary skill in the art to select only the nonlinear activity if that is what desired to be recorded. Regardless, the Payton patent meets the claimed limitations because nonlinear site flow activity is recorded together with the linear site flow events.

Claims 2, 3, 4, 6

The steps as recited do not affect any of the steps recited in parent claim 1. The steps therefore are nonfunctional with respect to the method.

Claim 7, not included in the art rejection

No statement can be made as to whether Payton is applicable to claim 7 because its scope is not clear. See the Section 112 Rejection above,

Allowable Subject Matter

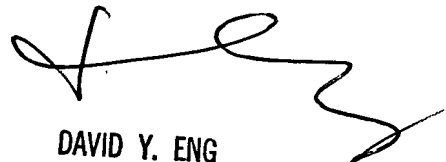
Claims 5, 10-14 and 20 appear to be containing patentable subject matter. However, for the reasons set forth in the Section 112, second paragraph Rejection, no statement can be made as to whether they are allowable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID Y. ENG
PRIMARY EXAMINER